

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

XITENG LIU,	)	C.A. No. 3:06-3255-CMC-JRM
	)	
Plaintiff,	)	
	)	OPINION AND ORDER
	)	ON MOTION TO DISMISS
	)	
U.S. CITIZENSHIP AND IMMIGRATION SERVICES, TEXAS SERVICE CENTER,	)	
	)	
Defendant.	)	
	)	

This matter is before the court for review of the Report and Recommendation (“Report”) entered on February 27, 2008. For the reasons set forth below, the Report is adopted except as modified below and Defendant’s motion to dismiss is granted.

**STANDARD**

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1). The court reviews only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

## **DISCUSSION**

The court has carefully reviewed the Report and Plaintiff's objections. With one exception, the court finds Plaintiff's objections to be without merit. The one exception relates to the Report's erroneous reference to "28 U.S.C. 214.2(f)(12)." Report at 3. As Plaintiff notes, there is no such section within Title 28. It is, however, clear that the Report intended to refer to 8 C.F.R. § 214.2(f)(12), which contains the language which is quoted in the Report. The citation error was, therefore, merely a scrivener's error which did not lead to any error in the Report's rationale or recommendation.

The court finds that Plaintiff's objections are all adequately and properly addressed by the Report. The court further agrees with both the rationale and recommendation of the Magistrate Judge and adopts both as its own.

## **CONCLUSION**

Wherefore, the Report and Recommendation is adopted as modified to correct a single citation error and Defendant's motion to dismiss is granted for the reasons set forth in the Report and Recommendation.

IT IS SO ORDERED.

S/ Cameron McGowan Currie  
CAMERON MCGOWAN CURRIE  
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina  
March 14, 2008